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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 10/043,804  | 01/11/2002  | Paul H. DeKeyser     | FAST-1                  | 9078             |
| 7590  | 06/14/2006  |                      | EXAMINER                |                  |
| LEONARD TACHNER<br>A PROFESSIONAL LAW CORPORATION<br>SUITE 38-E<br>17961 SKY PARK CIRCLE<br>IRVINE, CA 92614-6364 |             |                      | TEKLE, DANIEL T         |                  |
|   |             |                      | ART UNIT                | PAPER NUMBER     |
|   |             |                      | 2633                    |                  |
|   |             |                      | DATE MAILED: 06/14/2006 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

|                 |                 |  |
|-----------------|-----------------|--|
| Application No. | Applicant(s)    |  |
| 10/043,804      | DEKEYSER ET AL. |  |
| Examiner        | Art Unit        |  |
| Daniel Tekle    | 2633            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 01/11/02.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-6 are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

***Election/Restrictions***

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1, drawn to a Digital Video Recorder with analog/digital converters, classified in class 386, subclass 1.
- II. Claim 2-4, drawn to a Digital Video Recorder with a disk for storing video data, classified in class 348, subclass 715.
- III. Claim 5, drawn to a Digital Video Recorder with memory cycle, classified in class 711, subclass 100.
- IV. Claim 6, drawn to a method for metering compressed video data, classified in class 348, subclass 390.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions;

Invention I and II is distinct each from the other. Invention I is Digital Video Recorder with related analog to digital converter capabilities while invention II is related to Digital Video Recorder for storing video data. These two inventions are classified in

two different classes and subclass. The inventions are independent and distinct one to another.

**Invention II and III** is distinct each from the other. **Invention II** is related to Digital Video Recorder storing video data while **invention III** is related to Digital Video Recorder, which that allocates memory cycles using plurality of ports. These two inventions are classified in two different class and subclass. The inventions are independent and distinct one to another.

**Invention I and III** is distinct each from the other. **Invention I** is Digital Video Recorder with related analog to digital converter capabilities while **invention III** is related to Digital Video Recorder, which that allocates memory cycles using plurality of ports. These two inventions are classified in two different class and subclass. The inventions are independent and distinct one to another.

Therefore, while **invention I-III** are all drawn to Digital Video Recorder, each of the digital video recorder has a distinct and independent function that is unrelated to one another.

**Inventions I-III and IV** are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case;

**Invention I – III and IV**

**Invention I-III** are drawn to Digital Video Recorder with related analog to digital converter capabilities; Digital Video Recorder for storing video data and Digital Video Recorder, which that allocates memory cycles using plurality of ports respectively; while **Invention IV** is a method meters compressed video data rate to accommodate maximum disk data rates in a digital video recorder hard disk without dropping frames during recording. The method of invention IV can be processed in materially different products of invention I, II or III.

Therefore because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Leonard Trachner on May 31, 2006 to request an oral election to the above restriction requirement, but did not result in an election being made. The examiner spoke with Mr. Trachner's secretary, who kindly informed the examiner this case is presently being transferred to another firm. However, since the second firm has not presently submitted a power of attorney in the instant case, no election could be made at the present time.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103 (a) of the other invention.

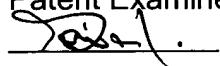
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Tekle whose telephone number is (571)-270-1117. The examiner can normally be reached on M to F, 7:30 to 5:00 atl. F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shanon Foley can be reached on (571) 272-0898. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel Tekle  
Patent Examiner



  
Shanon Foley  
Patent examiner Supervisory

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